C6240-1

Business and commercial Aviation

THE WEEKLY OF BUSINESS AVIATION

Vol. 42 No. 12 March 24, 1986 Page 89

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## JUSTICE DEPARTMENT STUDY RECOMMENDS MAJOR TORT LAW REFORMS

A Justice Department study group has recommended major changes in the way product liability cases are handled by the courts to help curb soaring judgments against manufacturers and limit the amount that lawyers receive in contingency fees for handling such cases. Details of the study were announced last week, the latest in a series of developments reflecting growing concern about the current product liability situation.

Richard K. Willard, assistant attorney general of the Justice Department's Civil Division who headed the study, said the recommended reforms are:

- Return to a fault-based standard for liability.
- Base causation findings on credible scientific and medical evidence and opinions.
- Eliminate joint and several liability in cases where defendants have not acted in concert.
- Limit non-economic damages (such as pain and suffering, mental anguish or punitive damages) to a fair and reasonable maximum dollar amount.
- Provide for periodic (instead of lump-sum) payments of damages for future medical care or lost income.
- Reduce awards in cases where a plaintiff can be compensated by certain collateral sources to prevent a windfall double recovery.
- Limit attorneys' contingency fees to reasonable amounts on a sliding scale.
- Encourage use of alternative dispute resolution mechanisms to resolve cases out of court.

Willard repeatedly dodged the question of whether the Reagan Administration will introduce legislation incorporating the suggested reforms, saying only that the matter is under review. Other sources, however, said such a bill is being drafted and that the matter carries a fairly high priority within the Administration. Willard said many of the problems in the tort liability system resulted from "judicial activists" sitting on state courts. The report cites interpretations of joint and several liability that have resulted in "defendants with only a limited role in causing an injury bearing the full cost of compensating plaintiff, even in some cases where the plaintiff may have been largely responsible for his own injury." The report said that has led to "highly inequitable treatment of defendants, particularly 'deep pocket' defendants."

The report recommends that non-economic damages be limited to $100,000, including any amount awarded in punitive damages. Contingency fees charged by plaintiffs' attorneys currently range from one-third of a total settlement up to 50 percent. Under the Justice Department recommendations, contingency fees would range from 25 percent of the first $100,000 in damages awarded down to 10 percent for amounts over $300,000. Thus, in the case of a $500,000 award, the attorney would receive a contingency fee of $80,000, compared to $166,666 if he were to receive one-third of the proceeds.

The report cites a sharp increase in the number of product liability cases filed in federal district court over the past 11 years, ranging from under 2,000 in 1974 to nearly 14,000 last year and similar increases in the average amount of settlements (see charts on the back of Pages 90-92). The report said many American businesses, professionals and municipalities are encountering serious insurance problems, arising from premium increases, policy cancellations and refusals to underwrite certain activities.

(Continued on the following page)

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JUSTICE DEPARTMENT (Cont.)

Industries, businesses and professions including general aviation and aerospace manufacturers, establishments serving liquor, doctors, motor carriers, architects and engineers were among those mentioned as facing enormous cost increases for liability insurance or inability to obtain sufficient coverage. In addition to the Justice Department report, the liability insurance problem has been receiving increasing media attention in recent months and Congress also is addressing the problem. The Senate Commerce Committee staff is reported to be working on the third draft of a comprehensive product liability bill introduced earlier by Sen. John Danforth (R-Mo.) A spokesman for Rep. Dan Glickman (D-Kan.) said hearings are anticipated on his bill (H.R.4142) in April or May (BA, Feb. 10/43).

FALCON 900 WINS FAA CERTIFICATION -- The Falcon 900, the latest entry of Avions Marcel Dassault Breguet in the business jet market, received FAA certification Friday through the agency's office in Brussels, Belgium. The new three-engine aircraft received French certification a week earlier. Officials of Falcon Jet Corp., which handles North American marketing for the Falcon line, said the first "green" customer aircraft will arrive in the U.S. this spring and is expected to be completed and in operation late this year. FJC's Falcon 900 demonstrator, the No. 2 certification aircraft, will begin flying in the U.S. late next month or in May.

U.S. EXIMBANK PROVIDES FINANCING TO COUNTER BRAZILIAN TERMS -- U.S. Export-Import Bank took the unusual step of financing the purchase of U.S.-manufactured goods by a domestic buyer last week to counter "heavily subsidized financing competition" from Brazil and bank officials indicated similar action may be taken regarding general aviation aircraft purchases. The bank agreed to lend $8.2 million at five percent annual interest to finance the sale of four hydraulic turbine generators by Allis-Chalmers Hydro, Inc. for installation in a hydroelectric power project in western Pennsylvania. Eximbank said its offer is directly competitive with an offer from the Brazilian Export Credit agency, CACEX, to support a sale of similar generator equipment by Voith Brasil S.A. of Sao Paulo, Brazil. John A. Bohn, Jr., first vice president and vice chairman of Eximbank said, "We are very concerned about the growing use of non-competitive export credits by the Brazilian government to finance sales of power generating equipment, general aviation aircraft and other products to the U.S. We think our action will be effective in this specific instance, but we expect the Administration will vigorously pursue a wider solution to this growing trade problem."

GE WORKERS AGREE TO END STRIKE AGAINST ENGINE MANUFACTURER -- Some 7,500 union workers voted overwhelmingly last Thursday to end their 27-day strike at General Electric's Riverworks Plant in Lynn, Mass. following approval of an agreement to improve relations between company foremen and union stewards. GE said following the vote that about 90 percent of the work force was expected to return to work last Friday, with the remainder due back over the course of the next two weeks. A spokesman said the financial impact of the strike "won't be of large proportions," but said there may be "some production imbalance" in some areas for a while.

EMBRY-RIDDLE SELECTED FOR FAA MANAGEMENT TRAINING SCHOOL -- Embry-Riddle Aeronautical University near Daytona Beach, Fla. has been tentatively selected as the site for the Federal Aviation Administration's new management training school, according to the Transportation Department. Embry-Riddle was awarded the contract over nine other contenders with a bid of $35 million. Contract is for a period of 10 years with two five year options, according to Bill Motzel, senior vice president of plans and development for the university.

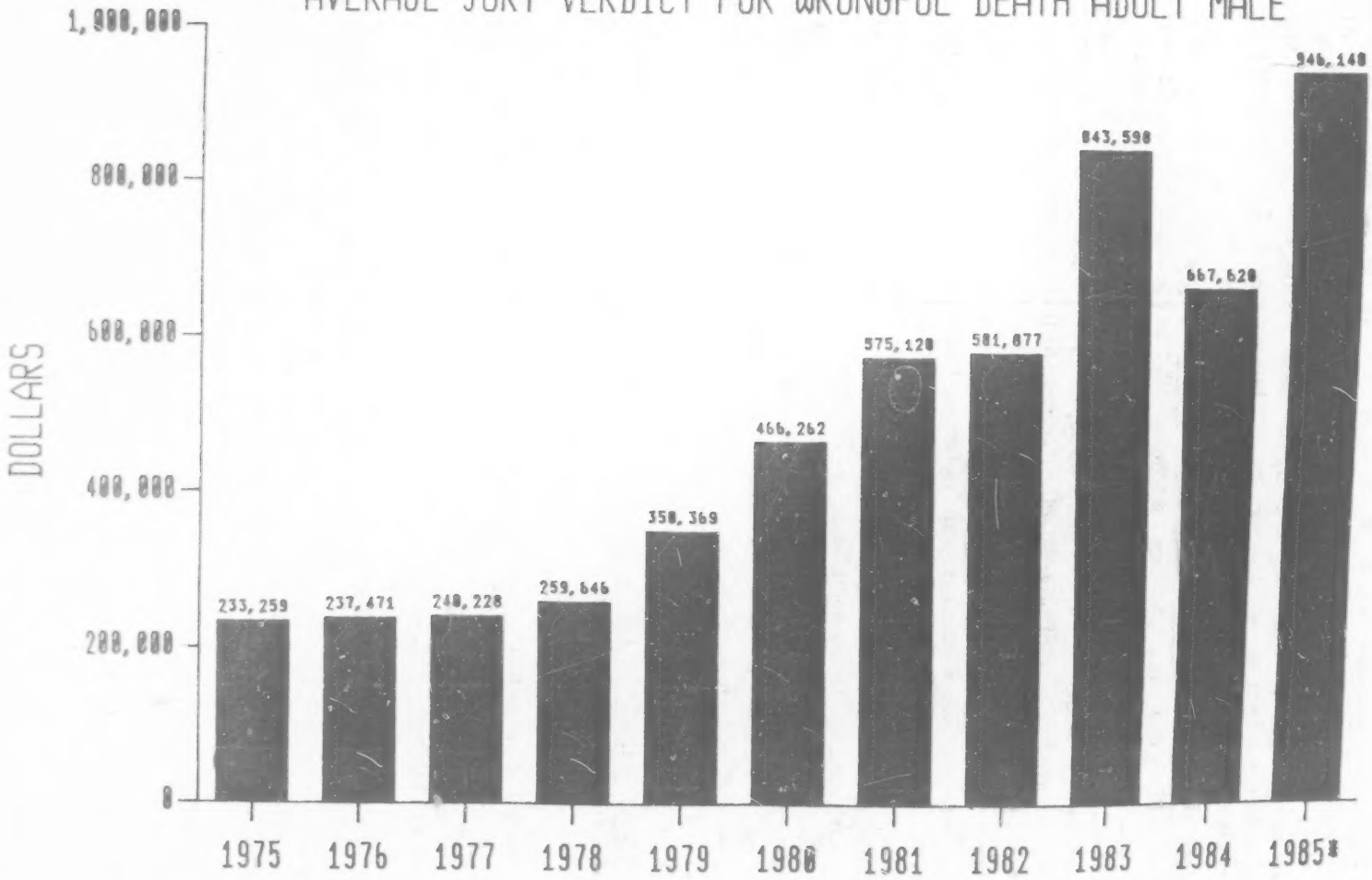
Final selection will be made following a review by the General Services Administration, to determine if Embry-Riddle's fees are "fair and reasonable." The Bunnell, Fla. campus was chosen because it offered the best value considering technical excellence, price and business management, according to DOT.

Contract is for a 130,000-square-foot facility, which will include classrooms, dormitory and eating facilities, administrative offices and adjunct areas needed for operation. Separate bids will be made for the instructional staff at a later date. FAA will continue to train personnel at the current location at Cameron University in Lawton, Okla. until mid-1987. Cameron was not one of the 10 groups making bids for the new facility as the school is currently involved in an expansion program, according to DOT.

## PRODUCT LIABILITY CASES FILED IN FEDERAL DISTRICT COURT

Source: Administrative Office of the United States Courts

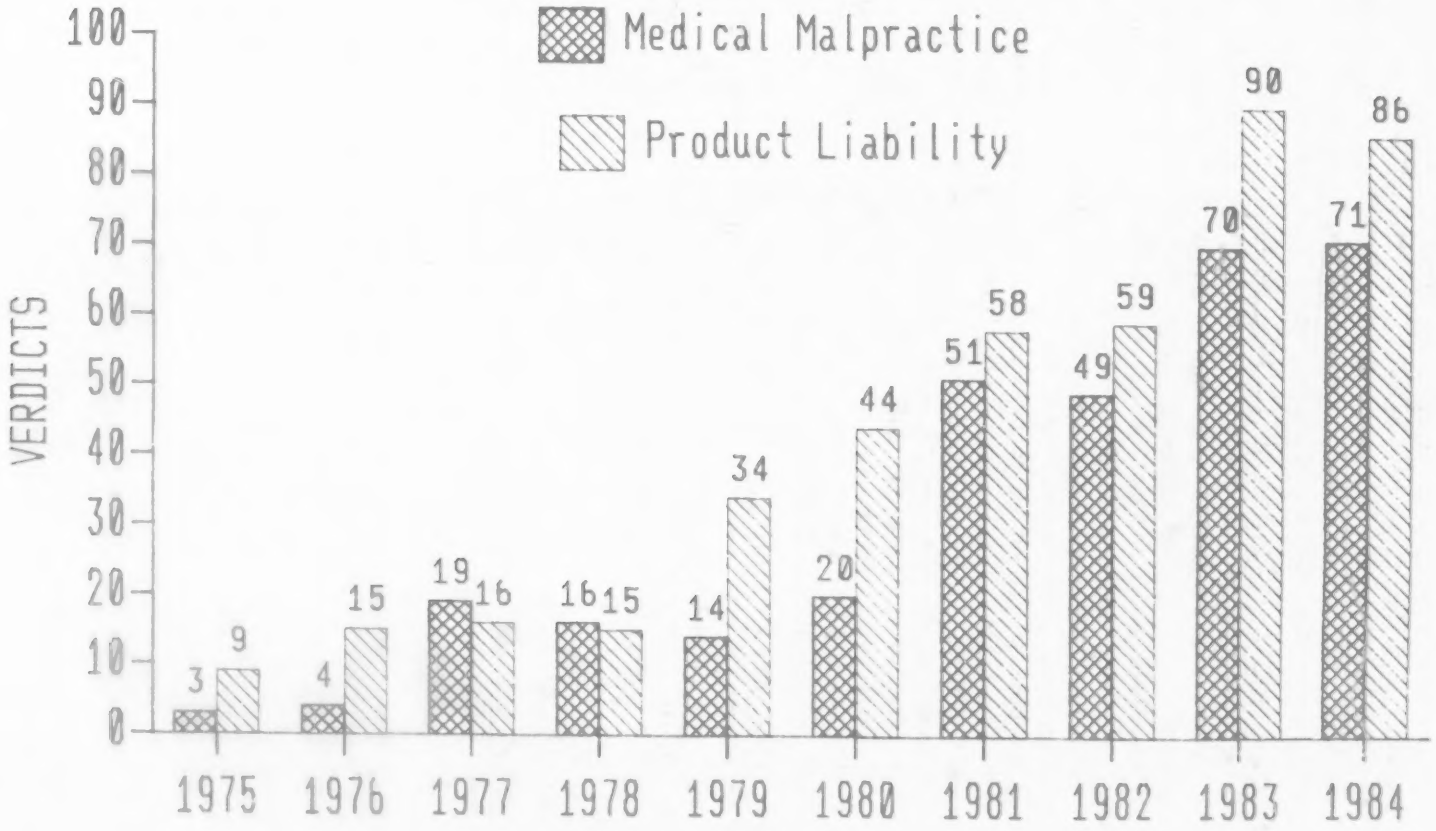
# AVERAGE JURY VERDICT FOR WRONGFUL DEATH ADULT MALE




Source: Jury Verdict Research, Inc.

* 1985 Information Not Complete

# MILLION DOLLAR JURY VERDICTS




Source: Jury Verdict Research, Inc.